IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LEON D. FORD, Plaintiff, vs. CITY OF PITTSBURGH; POLICE OFFICER DAVID DERBISH; POLICE OFFICER MICHAEL KOSKO *and* POLICE OFFICER ANDREW MILLER, Defendants. POLICE OFFICER DAVID DERBISH; POLICE OFFICER MICHAEL KOSKO *and* POLICE OFFICER ANDREW MILLER, Cross-Claim Plaintiffs, vs. CITY OF PITTSBURGH, Cross-Claim Defendant.	)	Civil Action No. 13-1364 Chief Magistrate Judge Maureen P. Kelly Re: ECF No. 248

ORDER OF COURT

AND NOW, this 28th day of April, 2017, upon consideration of Defendants' Motion to Compel a Vocational Interview and Extend Expert Deadlines, ECF No. 248, and Plaintiff's response in opposition, ECF No. 258, it is hereby **ORDERED** that the Motion is **GRANTED IN PART** and **DENIED IN PART**.

In light of the significant injuries that Plaintiff sustained as a result of the incident at issue in this case, it can reasonably be expected that these injuries may impact Plaintiff's long-term employment and earnings, especially given his age. Plaintiff has clearly placed his physical limitations and employment abilities in controversy. In fact, the topic of the use of vocational experts at trial is a topic that has been previously discussed by counsel with this Court during conferences. In light of these facts, Defendants' request for a vocational examination satisfies the good cause requirements of Federal Rule of Civil Procedure 35.

The Court finds it concerning that the Expert Discovery Scheduling Order in this case was issued on January 6, 2017, ECF No. 234, and yet Defendants waited until April 10, 2017 (three months later) to request a vocational interview, ECF No. 248-1, when they were fully aware that Plaintiff's employment abilities were at issued given his significant injuries. The Court also notes that Defendants requested an IME of Plaintiff on March 14, 2017, ECF No. 243.

As Plaintiff correctly points out, Defendants have already deposed Plaintiff on two dates and he recently underwent an IME on April 23, 2017. ECF No. 251. As such, this Court finds that there is no need for a duplicative evaluation of Plaintiff's "demeanor and physical abilities" as Defendants seek. Further, there has been no allegation of cognitive impairment in this case warranting vocational testing. Therefore, the Court will permit a vocational interview of Plaintiff but it will not be as broad in duration and scope as Defendants seek.

Accordingly, the Court rules as follows.

1. The vocational interview of Plaintiff by Mr. Heckman is to take place on May 3, 2017.
2. The interview is not to take place at Plaintiff's home. Counsel are to work out an appropriate location that will accommodate Plaintiff in terms of accessibility.
3. Consistent with this Court's prior ruling as to the IME, Plaintiff's counsel may be present for the vocational interview.
4. The vocational interview may not involve a physical examination or cognitive/vocational testing.

5. The interview is limited to 90 minutes.
6. All of Defendants' expert reports, including the report of Mr. Heckman, must be filed by May 12, 2017, as per the prior Expert Discovery Scheduling Order, with the exception that the report of the Defendants' economist must be filed by May 17, 2017.

BY THE COURT:

MAUREEN P. KELLY
CHIEF UNITED STATES MAGISTRATE JUDGE